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## FISCAL IMPACT REPORT

SPONSOR McSorely DATE TYPED 02/21/05 HB \_\_\_\_\_

SHORT TITLE Domestic Partners Rights & Responsibility Act SB 576

ANALYST Ford

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			Indeterminate – See Narrative		

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	Indeterminate – See Narrative		Recurring	Children’s Trust Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to  
HB 86, HB 445, SB 597, SJR 18

### SOURCES OF INFORMATION

LFC Files

### Responses Received From

Administrative Office of the Courts (AOC)  
Attorney General (AGO)  
Corrections Department (NMCD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 576 enacts the Domestic Partner Rights and Responsibilities Act, providing to do-

mestic partners the same rights, protections, and benefits, as well as responsibilities, obligations, and duties, under law as spouses in marriage. These include, among others, rights and obligations related to child support, protections and responsibilities relating to survivorship, as well as parental rights and obligations.

The term “domestic partner” is defined as “an adult who has chosen to share in another adult’s life in an intimate and committed relationship of mutual caring and who has established a domestic partnership.” The bill makes no distinction between same-sex relationships and heterosexual relationships.

The bill provides that domestic partners shall use the same filing status for state income taxes, as is used on their federal income tax return. Earned income shall not be treated as community property for state income tax purposes.

The bill gives the district court jurisdiction over proceedings relating to the dissolution of a domestic partnership, nullity of a domestic partnership and legal separation of a domestic partnership, which shall follow the same procedures as those applicable to spouses in a marriage.

Senate Bill 576 provides the process and requirements for establishing a domestic partnership. A domestic partnership is established when it is licensed with the county clerk and recorded in the record of domestic partnership. To obtain a license, the potential domestic partners shall be at least 18 years old, capable of consenting, not married to another and not in another domestic partnership, not related by blood in a way that would prevent marriage, and share a common residence immediately upon becoming licensed. The required fee for the license is \$25 with \$15 going to the state’s children’s trust fund.

Applicants for a domestic partnership license must complete an application for and affidavit of domestic partnership and pay the required fee. After the application is notarized, the county clerk shall issue a domestic partnership license and mail it to the domestic partners, who shall return the license to be recorded within 90 days of the date of the affidavit. The license shall provide an area for the signature of 2 witnesses

## **FISCAL IMPLICATIONS**

Senate Bill 576 requires county clerks to charge a \$25 fee for each domestic partnership license issued and record, \$15 of which will be transmitted to the children’s trust fund. This fee and its disposition is the same as that for marriage licenses. This would generate an indeterminate revenue increase for the children’s trust fund, as well as provide revenue to the county clerks to offset their costs.

The bill would also result in indeterminate cost increases to the courts for judicial proceedings related to domestic partnerships. Other state agencies may incur costs to update their policies and procedures to account for domestic partnerships.

There may be other factors that that will have an off-setting and indeterminate fiscal impact. For example, if a domestic partnership is dissolved and one partner is required to pay child support, it may decrease the chances that the other partner and his/her child will require public assistance; however, it may also increase costs to agencies that enforce child support requirements.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 86 defines domestic partnership and allows domestic partners to purchase health insurance and life insurance policies.

House Bill 445 and Senate Bill 597 seek to define marriage in statute as a contract between one man and one woman. Senate Joint Resolution 18 seeks to add a new section to the state constitution providing that the only marriages recognized by the state, regardless of where performed, would be those between one man and one woman. Some may feel that Senate Bill 576 conflicts with these measures by extending marriage provisions to domestic partnerships, while others may argue that the bill conforms to these measures by establishing a contract other than marriage for same-sex couples.

## **TECHNICAL ISSUES**

As the AOC notes, there may be an unnecessary step in the process of issuing a domestic partnership license. The bill requires the domestic partners to make an application for a license, which must be notarized. Then a separate license is issued and mailed to the partners for their signature and the signature of two witnesses. The domestic partners then mail the license back to the county clerk for recording. The bill does not require that any ceremony take place confirming the domestic partnership. Is it necessary for this process to occur in two stages or could the application/affidavit and the license be combined into one document?

## **OTHER SUBSTANTIVE ISSUES**

According to the AGO, several other states have enacted laws recognizing domestic partnerships, including California, New Jersey, Maine, Hawaii and Vermont. Massachusetts has legalized same-sex marriage through judicial decision.

**EF/lg**